

PARLIAMENTARY GOVERNMENT

IN CANADA.

A LECTURE

READ BEFORE THE LAW SCHOOL OF BISHOP'S COLLEGE,
SHERBROOKE,

BY

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MONTREAL:
DAWSON BROTHERS, PUBLISHERS.

1886.

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PREFACE.

This paper was prepared some years ago, originally as a study for personal use. It was afterwards read as a lecture at Coaticook.

In order to test its accuracy, the manuscript was submitted for perusal to the late Mr. Alpheus Todd, who returned it with the following letter:—

LIBRARY OF PARLIAMENT,

OTTAWA, 8th May, 1878.

Having had an opportunity of perusing Mr. C. C. Colby's Lecture on Parliamentary Government, I would cordially commend it to public attention. It presents, in a popular form, a comprehensive outline of our political system, drawn with great fidelity and insight, and with a keen appreciation of the worth of British constitutional principles. It has been a reproach to our political literature, that a simple and correct description of our form

of government is rarely to be found. For this reason, Mr. Colby's essay ought to have a wide circulation. As the production of an experienced politician, as well as a close observer, and an earnest student in the region of political knowledge, it cannot fail to be read with interest and benefit, by all who desire a more intimate acquaintance with the free institutions under which it is our privilege to live.

ALPHEUS TODD.

After having been put aside for some years, the paper was recently read at Sherbrooke as a lecture, before the Law School of Bishop's College. It is now published at the special request of the Law Faculty of that University.

PARLIAMENTARY GOVERNMENT IN CANADA.

THE British North America Act of 1867 establishes the federal union of provinces. It also constitutes and distributes the powers by which laws are to be thereafter made, amended, repealed, and executed, in the Dominion of Canada.

This Act declares itself to have been enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in Parliament assembled ; conformably with the expressed desire of the Provinces of Canada, Nova Scotia and New Brunswick to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, *with a constitution similar in principle to that of the United Kingdom.* Thus, it becomes our written constitution and organic law. It contains few words, but it is pregnant with the wisdom and experience of ages. It is printed upon a few

pages of the statute book, but to thoroughly understand it one must be familiar with the whole range of British history.

First, in the distribution of powers, it is declared "that the Executive Government and Authority of and over Canada continues to be and is vested in the Queen."

In order to know what powers and limitations are involved in this enactment, it is necessary to go outside the text of the Constitution and follow the long strife between prerogative and privilege from the dawn of English history down to very recent times.

It is enacted that "there shall be one Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons," and that "the privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada; but so that any act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof."

What are the privileges, immunities and powers of the Commons House of Parliament of the United Kingdom which are thus prescribed as the measure and limit of the privileges, immunities and powers of the Houses of Parliament of Canada ?

Again, we have to go outside the text of the constitution for the complete answer, but, nevertheless, in these brief clauses lies the kernel of the whole matter. In these terse sentences are defined the law-making and law-executing powers ; the omnipotence, as it is sometimes called, of Parliament and the sovereignty of the monarch.

In order to apprehend the full meaning of these important clauses, we must pursue the whole course of English history, from the early days when monarchs *governed* and the people *served*, until now when the people govern and the monarch *reigns*. If we would know how the prerogatives of the Crown have been diminished, and how the privileges, immunities and powers of the Houses of Parliament have been acquired, enlarged, and established, we must study, not only the thrilling records of revolutions and civil wars, but the more intricate and subtle antagonisms of parliamentary strife. Unhappily too few who enjoy the benefits of our glorious constitution, are willing to bestow the labour necessary fully to understand the theory and practice of that free Parliamentary Government in which the long struggles of their ancestors have resulted.

I shall speak this evening upon parliamentary government in Canada,—perhaps I should rather say upon parliamentary government in Great Britain and in Canada ; for essentially the systems are the same,— and I shall dwell chiefly upon what is termed responsible government or ministerial responsibility. Upon this important subject, the law student must look outside of his ordinary text books for information. To him, of all citizens, it is a reproach to be ill informed as to the theory and the practical working of the Constitution under which the laws are made.

As special treatises upon this subject are few and not accessible to all, and as the system is progressive in spirit and subject to continual modification in its application, I hope that what I shall say will be instructive to some and not entirely void of interest to any.

EARLY ENGLISH GOVERNMENT.

The government of England was never an absolute monarchy. By that term is implied a government in which the law-making and the law-executing power rest in the same person. No sovereign of England, within historic or traditional periods, has had the sole law-making power. Always it has been essential that a law, to be obligatory, should have received the sanction of the great council of the nation.

From the earliest times the law has overshadowed and constrained the sovereign. The third section of our B. N. A. Act commences thus : it shall be "*lawful* for the Queen," &c. In the days of Alfred, and throughout the reigns of all his successors, it would have been equally appropriate to say : "it shall be lawful for the King (or Queen)," &c.

If the people have always been subject to the king, the king has always been subject to the law. The superior majesty and supremacy of the law over king and people alike, in theory at least, have always been absolute and unquestioned in England. Thus the Government of England has always been a constitutional one. "The germs alike of the monarchic, the aristocratic and the democratic branches of the British Constitution will be found as far back as history or tradition throws any light on the institutions of the race." From the earliest times, the sovereign of England has been but one branch of the legislature. It is the same to-day. The B. N. A. Act says : "the executive government and authority of and over Canada is hereby declared to continue and be vested in the Queen." The declaration that the executive government and authority, the power of executing and enforcing the laws and administering the affairs of the Government, are vested in the reigning sovereign, would have been equally appropriate in the days of the early English kings. It is therefore true that the

legislative power and the executive authority and prerogatives of the monarch, the associate right of law-making and the sole prerogative of law-enforcing, have come down to us, through long ages of intestine strife, in form and theory intact. They are venerable by antiquity, radiant with glorious memories, and enthroned in the hearts of the people.

Have then the labors and the blood of the illustrious martyrs of civil liberty in English history been expended in vain? Are there no living fruits of their great toil and sacrifice? Nay—for to them do we owe the fact that no good germ of liberty has ever been lost ; and that to-day we may honestly boast that nowhere among human institutions is the reconciliation of law and liberty, of sovereign authority and popular independence, so perfectly illustrated as in the British Constitution, of which ours is the reflected image or counterpart.

Recent research into the polity of our Saxon forefathers, has disclosed the fact that in the earliest institution of their government, the supreme authority, legislative, executive, and judicial, rested conjointly in the ruler, an aristocratic council composed of men noble in birth, and a general assembly of freemen. We thus learn that in the days of the Heptarchy, and subsequently until the Norman Conquest, every act of government was done, not by the King alone, but by the King and his Witan, or

wise men. "The King and his Witan acted together ; the King could do nothing without the Witan, and the Witan could do nothing without the King."

The segregation of these blended powers, and their proper distribution, in order to meet the conditions of national growth, have been the great problems of English history—problems, the solution of which has been rendered inconceivably difficult by the ambition and rapacity of King, Lords, or Commons, each of which in turn has striven to absorb all power. No fuller expression of the extreme pretensions of the monarchic elements in the constitution, can be found than that in the following words of King James the First:—"As it is "atheism and blasphemy in a creature to dispute "what the Deity may do, so it is presumption and "sedition in a subject to dispute what a king may "do, in the height of his power. Good Christians "will be content with God's will revealed in his "word ; and good subjects will rest in the king's "will revealed in his law." The extreme opposite view is expressed in the declaration of Mr. Roebuck, in 1858, who exclaimed : "the Crown ! it is the House of Commons !"

RESPONSIBLE GOVERNMENT.

Eliminating the idea of divine right, the political antagonism of these apparently irreconcilable dogmas is completely harmonised by that most inge-

nious and effective of all political contrivances, a responsible ministry, whereby every act of the Sovereign, whether executive or legislative, must be done upon the advice of some minister, who is responsible to parliament for the act.

This principle it is which is implied in the phrase, "responsible government," and it is clearly stated by a standard writer in the following words :— "As a pledge and security for the rightful exercise of every act of royal authority, it is required by the constitution that the ministers of state, for the time being, shall be held responsible to Parliament and to the law of the land for all public acts of the Crown." In a constitutional point of view, so universal is the operation of this rule, that there is not a moment in the king's life, from his accession to his demise, during which there is not some one responsible to parliament for his public conduct ; and there can be no exercise of the Crown's authority for which it must not find some minister willing to make himself responsible." Accordingly, whenever the royal sign manual is used, it is necessary that it should be countersigned by a responsible minister, for the purpose of rendering it constitutionally valid and authoritative. This rule applies equally to the Queen's representative, the Governor General of Canada.

Anomalous as it may seem, it is yet true that, without apparent detriment to the high preroga-

tives and dignity of the Crown, and with a vast increase of its strength, and greater assurance of its stability, the controlling power of the State, in the executive, as well as in the legislative department, has gradually passed almost without observation from the sovereign to the representatives of the people in the Commons House of Parliament—to be exercised by them in deference to and in the fear of that supreme and overshadowing but unrecognised and intangible power over all—the public opinion of the nation. Such is the wonderful elasticity and adaptability of our system of government, that modern life has taken possession of the ancient form, and has not rent it. It has expanded to every stage of national growth ; for while the ancient prerogatives still exist, they can be lawfully exercised only upon the advice and sanction of a responsible minister—a minister and a ministry responsible to the Commons House of Parliament. Seeing, then, that these constitutional advisers of the Queen, or of the Governor General, as the case may be, are members of Parliament, and in Parliament they have to explain and defend every act of the executive, every sin of omission, and every deed of commission ; they must command and continue to possess the confidence of the immediate representatives of the people in that House. Thus the Crown still exercises its high prerogatives, but exercises them in consonance with the judgment

and wish of the people as represented in the House of Commons.

Lord Macaulay (Hist. Eng., vol. iv. pp. 348-350) well describes the functions of the Cabinet Council which has thus harmonised the conflicting elements of the British Constitution. "Happily," says he, "a way has been found out in which the House of Commons can exercise a paramount influence over the executive government, without assuming functions such as can never be well discharged by a body so numerous and so variously composed. An institution which did not exist in the times of the Plantagenets, of the Tudors or of the Stuarts, an institution not known to the law, an institution not mentioned in any statute, an institution of which such writers as De Lolme and Blackstone take no notice, began to exist a few years after the Revolution (1688), grew rapidly into importance, became firmly established, and is now almost as essential a part of our polity as the Parliament itself. This institution is the ministry. The ministry is, in fact, a committee of leading members of the two Houses. It is nominated by the Crown: but it consists exclusively of statesmen whose opinions on the pressing questions of the time agree, in the main, with the opinions of the majority of the House of Commons. Among the members of this committee are distributed the great departments of the administration. Each

“minister conducts the ordinary business of his own
“office without reference to his colleagues. But
“the most important business of every office, and
“especially such business as is likely to be the
“subject of discussion in Parliament, is brought
“under the consideration of the whole ministry.
“In Parliament, the ministers are bound to act as
“one man on all questions relating to the executive
“government. If one of them dissents from the
“rest on a question too important to admit of com-
“promise, it is his duty to retire. While the minis-
“ters retain the confidence of the parliamentary
“majority, that majority supports them against
“opposition, and rejects every motion which reflects
“on them or is likely to embarrass them. If they
“forfeit that confidence, if the parliamentary major-
“ity is dissatisfied with the way in which patronage
“is distributed, with the way in which the preroga-
“tive of mercy is used, with the conduct of foreign
“affairs, with the conduct of a war, the remedy is
“simple. It is not necessary that the Commons
“should take on themselves the business of admin-
“istration, that they should request the Crown to
“make this man a bishop and that a judge, to par-
“don one criminal and to execute another, to nego-
“tiate a treaty on a particular basis or to send
“an expedition to a particular place. They have
“merely to declare that they have ceased to trust
“the ministry, and to ask for a ministry which they
“can trust.

“It is by means of ministries thus constituted, and thus changed, that the English Government has long been conducted in general conformity with the deliberate sense of the House of Commons, and yet has been wonderfully free from the vices which are characteristic of governments administered by large, tumultuous and divided assemblies. A few distinguished persons, agreeing in their general opinions, are the confidential advisers at once of the Sovereign and of the Estates of the Realm. In the closet, they speak with the authority of men who stand high in the estimation of the representatives of the people. In Parliament, they speak with the authority of men versed in great affairs and acquainted with all the secrets of the state.

“Thus the cabinet has something of the popular character of a representative body ; and the representative body has something of the gravity of a cabinet.”

THE CABINET.

According to usage, the Queen selects her advisers, who are also her ministers, from among the members of the two Houses of Parliament, and from those whose views are in accord with the majority in the House of Commons. More strictly, she selects one person, who is called the premier or prime minister, and he proposes the names of

the others whom he wishes, and who are willing, to be associated with him in the ministry. When vacancies occur in the Cabinet, they are filled on the recommendation of the prime minister.

In Canada, each minister, except one, is charged with the headship of an important bureau or department in the administration of Government ; so that, with this exception, each minister has the personal oversight and responsibility of his particular department, and all have a common responsibility for all the administrative acts of the Government. The premier has the oversight of all and is responsible for all.

Of the fourteen Canadian ministers, two only at present are Senators, but all are members of the Cabinet. They are variously spoken of as "the ministry," "the cabinet," "the privy council," "the administration," "the government."

In England, the ministry or administration is composed of from fifty to sixty persons, of whom usually about fifteen are called to the cabinet, and hence are called cabinet ministers.

The responsibility of ministers is a joint and several one ; but an individual minister, other than the premier, may be dismissed for misconduct, and his dismissal will not affect the position of his colleagues unless they choose to make his cause their own. The dismissal or retirement of the prime minister dissolves the cabinet.

In all their relations to the sovereign and to parliament they must act unitedly. All divisions and conflicts of opinion must be harmonised at the council board or elsewhere ; and on no occasion must any diversity be permitted to appear, either in their advice to the sovereign or to the Houses of Parliament, or by their votes on any question affecting the Government.

They are sworn to secrecy as to their own deliberations, and as to their communications with and advice to the sovereign. From this obligation they can only be relieved by the express permission of the sovereign or her representative.

UNITY OF THE CABINET.

The premier, being the leader of a party, is, of course, greatly influenced by the sentiments of his party, and more immediately by the opinions and wishes of his associates in the cabinet, who, like himself, stand high in the confidence of his party ; but it is his privilege to control the policy and conduct of his administration, and to require the dismissal of a colleague or colleagues whose views are at variance with his own. It is the duty of every minister who dissents, either to yield his opinions or to resign.

Upon occasions the prime minister has acted in very important matters without consulting his colleagues. It not unfrequently happens, in the midst

of debate, that he is obliged to decide and declare at the instant the views or policy of the government in matters which have not been the subject of cabinet consultation.

The prime minister who has the confidence of the House of Commons is, for the time such confidence continues, the most influential political personage in the realm.

He is the official medium of communication between the cabinet and the governor-general, and he must submit for the royal sanction all measures agreed upon by the cabinet, together with full and explicit information and explanations. If the governor-general should not approve of a measure advised by his ministers, they have then to choose whether they will abandon that measure or tender their resignation. The power to dismiss the ministry also rests with the governor-general. This power should not be exercised except for reasons that can be justified to Parliament and approved by the people through their representatives.

Upon the resignation or dismissal of the premier it becomes the duty of the governor-general to communicate with some member of the Senate or House of Commons who may possess sufficient influence with his party to be entrusted with the task of forming a new administration. If the government which is called under these circumstances fails to command the confidence of the House of

Commons, the governor-general, upon its advice, will dissolve the House and cause writs to be issued for a general election.

Upon the temper of the new House will depend the continuance in power of the new administration or the recall of the former one. Thus the electors have become the arbiters of all differences between the Crown and its advisers, and to them a prompt and summary appeal is made by a dissolution of the House of Commons. In deference to their decision, the Crown will either maintain or withdraw its objections to an obnoxious measure.

DOUBLE RESPONSIBILITY OF THE CABINET.

Ministers have a two-fold responsibility—a responsibility to the *Crown* that their advice shall be for the public weal and acceptable to the Crown, and a responsibility to Parliament that the advice so tendered, accepted and acted upon, shall also be acceptable to the people, represented in the House of Commons.

Under this system of responsibility, it is necessarily supposed that ministries are composed of the best men, that is, of the ablest and most influential public men, within the ranks of the party which for the time is paramount in the country. Being such, and being at the head of all the great executive departments, they are entrusted by the Crown and the Houses of Parliament with the great, respon-

sible and multiform work of administering the affairs of state in all their branches and ramifications. They are the connecting link between Crown and people, and, being the constitutional advisers of both, they are the great regulating, adjusting, and balancing power of the state.

The question whether ministers should be responsible to king or parliament was one of the chief matters in controversy between King Charles I. and the Long Parliament.

The King declared that "he would neither separate the obedience of his servants from his own acts, nor permit them to be punished for obedience to his commands." Parliament retorted "that supplies for the support of the king's own estate could not be given, nor such assistance provided as the times required for the Protestant party beyond the sea, unless such councillors, ambassadors and other ministers *only* were, in future, employed as Parliament could give its confidence to." The issue was irreconcilable. Parliament for the time prevailed, and the King *lost his head*. Experience has solved the problem, has reconciled the difficulty, and placed King Charles and the regicide Parliament *both in the right and both in the wrong*, by making ministers responsible to *both* King and Parliament, thus harmonising all divergent interests and feelings and bringing unity out of discord.

Since then, people are no longer jealous of the immense prerogatives of the Crown, because its power and patronage are dispensed by the trusted and responsible agents of the people. The Crown is powerless to do harm, inasmuch as it can act only through the ministry of those whose political existence depends upon the will of the people. Since this twofold responsibility has become fully recognized and the political neutrality of the Crown established, there has been no strife, or motive for serious strife, amongst the different estates of the realm as to their respective powers. Each is content with the undisturbed enjoyment of its own rights, and scrupulously respects the privileges and prerogatives of the others.

NEUTRALITY OF THE CROWN.

I used the expression "the political neutrality of the Crown." No one can intelligently use, or hear, that expression without being reminded of the immeasurable benefit which Her Majesty Our Gracious Queen has conferred upon the cause of sound constitutional government by observing impartial neutrality between contending parties in the state for so long a period that non-interference in the conflict of political parties has become the recognized duty of the sovereign. She brought to the throne very strong preferences for the whigs and strong prejudices against the tories. Her feelings

were intensified by the insistence of Sir Robert Peel upon the removal of certain Ladies of her Majesty's Bedchamber, with which she refused to comply ; but these were the feelings of inexperienced youth. Under the judicious counsels of her consort, of illustrious memory, they so entirely disappeared that since her marriage "she has uniformly co-operated, in the most frank and unserved manner, with every leading statesman, of whatever party, who has in turn enjoyed her political confidence." She has rightly apprehended the true principles of constitutional government, that the dignity of the Crown should be exalted above the turbulent arena of partisan strife, and that to descend to that arena would be to invite desecration and spoliation.

No one more thoroughly understood or more sacredly regarded this constitutional duty of the Crown than did Lord Dufferin. It is within the recollection of us all how loyally and unreservedly he gave his political confidence to Sir John A. Macdonald when he, as prime minister, was so bitterly assailed in respect to the "Pacific Scandal"—how confidently he permitted Sir John to use in his defence all the weapons in the armory of the Crown—how he deprecated unfair warfare and "hitting below the belt." Nor, when the tables were turned and Mr. Mackenzie was called to his councils, have we forgotten with what frankness,

sincerity and constitutional cordiality he yielded himself to *his* guidance and advice. Many of us remember the fervent eulogiums pronounced by Sir John Macdonald and Mr. Mackenzie, widely as they otherwise differ, upon the absolute impartiality, fairness, and urbanity which that distinguished nobleman exhibited in all his relations to his ministers, to contending parties and to the people of Canada.

RESPONSIBILITY TO PARLIAMENT.

In speaking of the responsibility of ministers, I have thus far dwelt mostly upon their relations to the Crown. I shall now consider what may be of greater interest, as it comes more nearly home to us : their responsibility to Parliament and to the country. As before quoted, Macaulay says :—"The ministry is, in fact, a committee of leading members of the two Houses. It is nominated by the Crown ; but it consists exclusively of statesmen whose opinions on the pressing questions of the time agree, in the main, with the opinions of the majority of the House of Commons." No one, whether as a student of constitutional history and law, or as a practical statesman, was better qualified than Lord Macaulay to define the office and functions of this unrecognized but controlling power in our Constitution. From the fact of the double responsibility, previously pointed out, it follows that ministers must be members of Parliament, that they

may explain, defend and enforce their policy and measures. They are always on trial. They have the right always to be heard. Todd says :—" It is
" by means of the introduction of the ministers into
" Parliament for the purpose of representing therein
" the authority of the Crown and of carrying on
" the government in direct relation with that body,
" that the responsibility of ministers for every act
" of government is practically exemplified and en-
" forced. Having, in their individual capacity as
" members of one or other of the legislative houses,
" a right to sit therein, they are thus brought face
" to face with those who are privileged to pronounce
" authoritatively upon the policy of the government,
" and whose consent must be accorded to their very
" continuance in office as ministers of the Crown." Ministers being (as a general rule) the heads of important departments, they can explain and defend, in the presence of their judges, all changes, all official appointments and removals, the conduct of their subordinates, and all other matters concerning their particular departments.

PRIVILEGES OF PARLIAMENT.

It is the privilege of each member of Parliament to inquire, and he is entitled to receive an open and explicit answer on the floor of the House, touching every matter of administration, great and small ; whether it be a great railway or canal con-

tract, the appointment of a cabinet minister or chief justice, or the removal of the smallest officeholder. The minister must make satisfactory explanations concerning everything done in his department, though it embraces the whole Dominion from Prince Edward to Vancouver Island, descending to the most insignificant details, if required.

It is also the right of every member of Parliament to ask that copies of all documents, correspondence and matters of record, concerning any branch or act of administration, be laid before the House for its information—which request must be granted, unless sufficient reasons for refusal can be given. Thus the light of day is thrown into the most secret arcana of government, and every act is made manifest to those whose privilege it is to judge of it.

CONTROL OF TAXATION.

Ministers are chosen from both Houses in order to promote harmony between the executive and legislative bodies and between the Houses themselves ; but the manner of their distribution is fixed by no certain rule. The minister of finance must be of the House of Commons. The heads of those departments which are charged with the greatest expenditure of public money should be there also. The reason is obvious. *No bill involving the expenditure of public money or any tax or burden upon the people can originate elsewhere than in the*

House of Commons. It is the ancient and unquestioned privilege of that House to control all matters relating to taxation and the expenditure of public money.

It is a sacred right of the people under our Constitution, not merely that no tax or burden shall be imposed upon them without their sanction, but that no tax or burden shall be laid upon them which has not been originated and proposed by their *own immediate representatives* in the House of Commons.

THE SENATE.

Perhaps I should say here, lest I seem to underestimate the importance of the Senate, that I make but casual reference to that honorable body, for the reason, simply, that I desire to restrict my remarks as closely as possible to the subject of ministerial responsibility. A defeat in the Senate upon an important measure does not necessarily upset a ministry. A defeat in the Commons ordinarily does so. Mr. Mackenzie's administration was a strong one. He never failed to command large majorities in the House of Commons, but he did not for a moment enjoy the political confidence of a majority of the Senate. This temper of the upper chamber doubtless somewhat modified the character of legislation during his tenure of office. In the notable instance of the Nanaimo and

Esquimaux Railway Mr. Mackenzie's government sustained a signal defeat. Had a similar defeat occurred in the House of Commons, it would necessarily have resulted in the overthrow of the administration, and probably in the recall of Sir John A. Macdonald at that time. The Senate is a co-ordinate branch of Parliament, of superior dignity, and, except in the matter of money bills and taxation, equal in legislative power with the House of Commons. Senators are supposed to excel commoners in personal independence, parliamentary experience, wealth, social position, and in all other qualities which are required in members of an intelligent and independent deliberative body, and are supposed, therefore, to be qualified to restrain and modify the impetuous rush of popular passion, amend crude legislation, and render other valuable service to the State.

CHANGES OF MINISTRY.

The ministry being, in the first instance, made up of men who enjoy the confidence of the House of Commons, and who are able to lead and control it, it follows, from what I have stated, that the moment confidence and control are lost, the ministry must either resign or obtain the consent of the governor-general to dissolve the House and appeal to the country. On such an occasion, the Crown, or its representative, the governor-general, is called

upon to exercise his prerogative powers with judgment and impartiality and in deciding whether, upon the advice of his ministers, after a ministerial defeat, he will order a new election, the governor-general is influenced by the special circumstances of the occasion.

If the House had been recently elected under the auspices of the same government, he would not ordinarily consent to a dissolution, but would communicate with the leader of the opposition. If, however, the question upon which the defeat occurred were new and important, and not at issue during the previous election, especially if the Parliament were drawing to its end and the elections had been conducted under the auspices of a hostile administration, he would be very likely to grant a dissolution and appeal before requiring a change of ministry. At the crisis of 1873, Lord Dufferin, had he been asked, might have hesitated to grant Sir John Macdonald the privilege of an appeal to the country on the Pacific Scandal question, although the immediate issue was a new one; because the House of Commons had been recently elected under Sir John's own auspices, had brought him a large majority, and presumably was as favourable to him as the country at that time could be supposed to be. But he seems to have had no hesitation in granting that privilege to Mr. Mackenzie, immediately upon his accession to power, for the twofold

reason that the House had been elected under the *regime* of his opponent, and that, since the election, events had occurred which were calculated to affect the political sentiments of the electors.

The conditions under which the grace of resignation becomes a necessary duty I find stated thus :
“ If the ministers of the Crown do not sufficiently
“ possess the confidence of the House of Commons
“ to enable them to carry through the House mea-
“ sures which they deem of essential importance to
“ the public welfare, their continuance in office is
“ at variance with the spirit of the Constitution.”

It is not often that the House manifests its confidence in a ministry by a direct vote affirming confidence. That course is sometimes adopted after a ministerial defeat in the Upper Chamber. Ministers are willing to believe that they enjoy the confidence of the House so long as it continues to pass their measures. *Nor* is a *want of* confidence always manifested by a direct vote affirming want of confidence. Ministries are more frequently overthrown by failure to carry some important measure than by direct votes of non-confidence or censure. The House will sometimes vote down a particular measure when it would hesitate to affirm general non-confidence. A vote of censure for an act of administration is a reason for resignation. Perhaps a few hypothetical instances will best illustrate my meaning.

The House of Commons at one time voted down Mr. Costigan's resolution to the effect that it is right and proper that a qualified amnesty be granted to W. D. O'Donahue, and that he be placed in the same position as were Riel and Lepine. As the pardoning power is a prerogative of the Crown, exercised under the advice of its ministry, the ministry is not bound to consult the House of Commons as to the advice it shall give ; but it is responsible to the House for the advice given. It happened that, during the recess of Parliament, O'Donahue received the qualified amnesty, and Mr. Mackenzie became responsible to Parliament for the exercise of the prerogative. If, then, at the next session, some member had proposed a resolution expressing *regret* that the Crown had been advised to grant the amnesty, and had the House passed the resolution in the affirmative, Mr. Mackenzie would have been obliged to resign, taking with him his whole cabinet, unless his Excellency had granted a dissolution, with an appeal to the country. That case would have been one in which the ministry were held responsible for *advice given to the Crown*.

Let us suppose another. Mr. Mills, when a private member, introduced a resolution affirming the desirableness of certain radical changes in the constitution of the Senate. He subsequently became a member of Mr. Mackenzie's administration. Had

he then, as a minister, introduced a bill based upon those views, and had his bill been lost or essentially amended, that fact would have constituted a ministerial defeat *upon an important government measure*, and Mr. Mackenzie and his colleagues would in consequence have been obliged to retire.

During the session of 1878, Sir John A. Macdonald moved an amendment to the tariff resolutions in the direction of protection to home industries. The amendment was lost. Had it been carried, Mr. Mackenzie's administration would thereby have suffered a defeat upon a question of *financial policy*, and would have resigned.

These hypothetical instances illustrate some of the most usual methods by which the House gives expression to the fact that the existing ministry no longer enjoys its political confidence.

It must not, however, be inferred that the passing of every clause of every measure is a necessary condition of general confidence in a ministry. Measures carefully matured in the Cabinet are often very considerably modified. Sometimes they are dropped altogether, in deference to the sentiment of the House or outside opinion. Not unfrequently the government sustains the defeat of a measure, or the rejection of some of its material clauses, yet goes on—conscious of possessing the general confidence of the House. But when the measure is important, or when, although not vitally impor

tant, the minister declares that he will accept an adverse vote as a vote of non confidence, the House has no alternative but to pass the measure or part with the ministry.

MINISTERIAL MEASURES.

Few, not in public life, are aware how large a part of the legislation of Parliament must be initiated by the ministry. Within a few years past "it has become an established principle that all "important acts of legislation must be originated, "and their passage through Parliament facilitated, "by the advisers of the Crown." They are required to prepare and submit to Parliament whatever measures may be needed for the public good, and to resist all objectionable measures, from whatever source they may arise. It is as much their duty to prevent improper legislation as to propose useful and necessary legislation. They are responsible, not only for the policy, wisdom and legality of their own measures, but also that no impolitic, unwise or illegal measures be passed at the instance of others. In short, they are responsible for almost the whole body of legislation.

This doctrine is forcibly laid down by a distinguished writer in the following words ;—"Now-a-days, immediately upon the formation of a ministry, it assumes, in addition to the ordinary duties "of an executive government, other and more im-

“portant functions, unknown to the theory of the
“Constitution ; namely, the management, control
“and direction of the whole mass of political legis-
“lation, by whomsoever originated, in conformity
‘with its own ideas of political science and civil
“economy ; and, as long as it commands the con-
“fidence of the House of Commons, it should be
“able to prevent the adoption, by Parliament, of
“any measure which, in the judgment of ministers,
“is inexpedient and unwise.”

MONEY GRANTS.

All motions for the grant of money for the public service, or for imposing any pecuniary charge upon the people, must emanate from the ministers of the Crown in the House of Commons, and private members are debarred from initiating such proceedings, unless with the recommendation of the Crown. Even the right of petition, sacred as we deem it to be, is affected by this provision of our Constitution, for no petition will be received by the House of Commons asking the expenditure of public money, or anything that would involve a tax upon the people, unless with the consent of the Crown. No private member can propose a motion, resolution or bill to that effect. Nor can any committee of the House recommend it. All such propositions must emanate from the ministry, upon its responsibility.

I had occasion to become aware of this parliamentary rule very early in my parliamentary life. In the interest of the farmers, I sought to get a duty imposed upon a certain article of farm produce coming into Canada. Under no rule of the House could I directly ask for the imposition of such a duty. I could, however, move for copies of papers when no papers existed, and on that motion could make a speech on the subject. I could get a committee appointed, and a report from the committee recommending some speedy measure of relief. I could get a memorial, signed by a majority of the members of the House, asking the ministry to recommend the imposition of the duty. All these things I did, and, by thus "whipping the devil round the post," I obtained through the government what I wanted ; but I could not move in the House for a direct imposition of the duty, nor could my committee recommend it. Not so with a *reduction* of duties and taxes. Any member may propose that ; but the government, upon its responsibility, consents or refuses. I found no legal impediment in the way when I asked for a specific reduction of duty upon an article of common domestic use.

THE BUDGET.

At each session of Parliament, the minister of finance in Canada (like the chancellor of the exchequer in England) submits to the House of

Commons the annual financial statement, usually termed *the Budget*. In this statement he gives the results of the financial measures of the preceding session, and a general view of the expected income and expenditure of the ensuing year. He intimates whether the government intends to propose the repeal or abatement of any taxes, or the raising of money by additional taxes, loans, or otherwise, and for what specific purposes. He reviews the general financial condition and prospects of the country, institutes comparisons with former years, notes any special causes of the prosperity or depression of the great industries of the country, proposes his remedies, if he has any, and informs the House concerning the credit of the country in the money markets of the world. By means of this exposition, and the criticisms, explanations and discussions which follow it, aided also by the items of the past year's expenditure and the estimates for the coming year, every member is enabled intelligently to condemn or approve the financial policy and conduct of the administration, as a whole and in its parts. Every item of proposed expenditure is discussed and voted upon in detail ; every proposed means of raising revenue is discussed and determined with equal minuteness, and cannot be exceeded without the consent of Parliament. Each member has thus an opportunity to inquire into, discuss and oppose, at various stages in committee and at the final vote

of concurrence, the smallest details of the government financial programme.

By this admirable method, the time of Parliament is not wasted in the consideration of crude, ill-digested and incongruous schemes of individual members, whose sources of information are imperfect, and for whose ability there is no guarantee. In place of that, a comprehensive scheme is proposed, embracing all sources of income and outlets of expenditure—a scheme which has been carefully prepared and considered by the best financial minds of the dominant party ; by men who have the amplest means of information at their hand, whose time is wholly given to the public service, and who are responsible for the scheme in its entirety.

It by no means follows that the financial policy of an executive government is the best possible for the country. On the contrary, a particular scheme may embody principles of the most injurious tendency. But there is this manifest advantage—that, good or bad, it stands out in clear and distinct outline ; the embodiment of a settled and determined plan, and so identified with the political fortunes of its authors, that if the country condemns it, those who proposed it are driven from power ; if the country approves, the policy receives a generous support, and its authors are rewarded by continuance in office. This effective system of reward and punishment ensures vigilance and caution on the

part of those who are charged with financial responsibilities, and is a safeguard against hasty and ill-considered experiments.

THE PREMIER.

This sketch would be incomplete if I did not dwell for a moment upon the special offices and responsibilities of the man who, by reason of his position, is necessarily the hardest worked, most highly lauded and best abused man in the whole Dominion ; I mean the premier, first minister, or prime minister, as he is indifferently called, whoever, for the time being, he may be. He is the commander-in-chief of the party, by the common consent of its members. He alone can give authoritative expression to its views and aims. No plank can have place in its political platform without his sanction. He disciplines or casts out heterodox and refractory members. His authority reaches and controls all assemblages of his party, from Nova Scotia to British Columbia. He arrays for battle and directs all movements. He is at the head of the commissariat department, as well ; being the grand dispenser of patronage. He must, if he can, reconcile all differences, and keep his party in courage, unity and content. A proper discharge of the duties pertaining to the *political* headship of a party requires immense labour and infinite judgment, patience and tact. As chief adviser to the

Crown, he needs to have great caution and circumspection. He is frequently the head of a laborious department. In the first years of Confederation, Sir John Macdonald, as minister of justice, had as much departmental work alone as any man ought to perform. Mr. Mackenzie took upon himself the equally laborious duties of minister of public works, and Sir John A. Macdonald more recently the ministry of the interior.

But the premier has a general supervision of all the other departments, as well as the special work of his own. Having a predominant voice in council, he must thoroughly understand every subject under deliberation. When, as with us, he is leader of the House of Commons also, his labors are simply Herculean. As leader, he is personally responsible for the conduct of public business. He must maintain a good understanding among members of every shade of political opinion. He must be constantly in his place, ready to handle vigorously all the weapons of attack and defence. He must supervise all the standing and special committees of the House. He has special duties of hospitality. He must receive all delegations, listen to all grievances, appease all discontent. He must have firmness to resist the rapacity of greedy friends and the unreasonable demands of factions and sections; intrepidity to fight the battles of his party at all times and everywhere; a thorough knowledge of consti-

tutional and parliamentary law and practice ; a thorough knowledge and vivid recollection of political history and events ; a ready judgment to decide instantly what is best in all surprises and ambuscades ; unusual powers of debate and persuasion ; a thorough insight into the characters and motives of men ; and a ready tact to lead and control them. An incapable prime minister demoralizes and deadens his party ; a capable one is the life and soul of it. If the possession of political power be any compensation to a man who so devotes himself to the service of his party and country, the head of a vigorous administration and the successful leader of Parliament is amply rewarded, for in him, for the time being, the exercise of all political power is centered.

The prime minister governs the state. Carlyle says that Sir Robert Walpole for twenty years governed England. Pitt governed it for nearly the same period. It might almost be said that for thirty years Sir John Macdonald has governed Canada.

Here, hidden away in the prime minister and cabinet, unrecognized by written law, lies the mainspring of our political institution.

THE OPPOSITION.

Next in importance, and equally unrecognized, is another potent and countervailing force, known

as her Majesty's loyal opposition and its chief. The leader of the opposition needs to possess all the qualities which are essential to the headship of a government—for, by a turn in the wheel of fortune, he is himself liable at any moment to be called upon to form a government. He has the same outside duties of marshalling and controlling his party. He is the party mouthpiece and representative. While leading an attack, he must not take positions which, when charged with the responsibilities of office, he cannot maintain. He must inspire his party with courage and hope. He must watch the enemy, and strike at every unguarded and vulnerable point. Todd says :—" It is the function of the opposition " to state the case against the administration—to " say everything which may be plausibly said against " every measure, act or word of every member of " the ministry ; in short, to constitute a standing " censorship of the government, subjecting all its " acts to a close and jealous scrutiny." It is said that the peculiar office of the opposition is " to " watch with keen eye the conduct of the govern- " ment, to see if anything be wrong or blameable " or liable to criticism, to trip them up even before " they fall, and, if they stumble, to call upon them " to set things right again." It is theirs to criticize and object. It is their privilege to oppose everything. In this manner, a vigorous and vigilant opposition is capable of rendering as valuable ser-

vice to the state as the government itself. The temptations to misuse power and patronage are so great, that, perhaps, the best guarantee for a pure administration lies in the vigilance of the opposition. "The price of liberty is eternal vigilance." Wholesome criticism elevates, purifies and refines. Moreover, as, in the material universe, the movement of planets is determined by opposing forces, in like manner, are determined the lines of movement in our political system.

GOVERNMENT BY PARTY.

Hitherto, constitutional machinery has been worked by and through party and party organization. There are those who think it might be more successfully worked by independent force, free from the trammels and despotism of party. It may be so, but the experiment has not yet been tried. Parliamentary government is a government by party. Party is compromise—the embodiment of the average view of a large number of people. The British constitution is the offspring of compromise. Civil liberty is the result of compromise and concession. We concede a portion of our natural rights, in order that we may be protected in the enjoyment of civil rights. So, all the way through, from primary elections to completed legislation, all political effects are the results of compromise. At the very threshold of political action,

when you have to elect a member to Parliament, and ask who may vote, the franchise, which determines that, is a creature of compromise. It is a compromise between the views of those, on the one hand, who think that everybody should vote, and those, on the other hand, who think that only the few selected by the test of property and intelligence should be permitted to vote. Next comes the question; for whom shall we vote? There are two thousand electors and only two or three candidates. Many electors may not like either candidate. They prefer some one who is not named, but they must choose, or not vote. They choose between evils, perhaps, and yield or concede their convictions and preferences. For instance, an elector has two hobbies, protection and prohibition; but the protectionist candidate does not believe in prohibition, and the other candidate does not believe in protection. Here, again, if he vote, is sacrifice and compromise. Among the electors are two thousand independent minds, nearly all of whom must be more or less warped and bent in order to constitute either of the candidates his representative and spokesman. The elected candidate represents the average mind and bent of a majority of his constituents; but if he sought to please every one of his supporters, he would need to have more hues than the chameleon.

The elected member goes to Parliament an inde-

pendent man, and finds himself precisely in the position of his two thousand independent constituents, each of whom was obliged to sacrifice or compromise his independent individual views in electing him. He finds himself on the floor with two hundred other equally independent men, entertaining individual and divergent views, some even holding almost diametrically opposite views on most questions. An inexorable necessity compels them to crystallise into parties. Men having most in common in their line of thought, feeling and interest come together, and find that they cannot all think alike, any more than they all look alike. But, in so coming together, each man is compelled to sacrifice, concede or leave in abeyance more or less of his individual judgment and will. Thus the average sentiment of a party is the standard around which all its adherents must rally. The man strengthens the party and the party strengthens the man. The average member of a party finds himself very nearly in the position of the elector who voted for him. The elector was compelled to make choice between two candidates or waste his vote and influence. The member is compelled to make choice between two parties or waste his vote and influence. A man within a party has influence to shape the policy of the party, and in so far as he can accomplish that, he wields a power a hundred fold greater than his own ; while the man who stands aloof from party is

the butt of all the parties. Thus members of Parliament are, willingly or unwillingly, drawn within the vortex of party. Thus parties are formed, and, drawing to themselves all the political forces, alternately rule the state. No man should entirely surrender his political conscience to the keeping of any other man or any party. But no man can have his own way in all things, and, in so far as he cannot make his own way, he is very likely to fall into the path with others.

Above the rank and file are the leaders of party. They also, in their narrower circle, are equally the victims of compromise—they must abate, conform, surrender and forego. In its relations to all the branches of the legislature and the people at large, the spirit of party must be tempered by concession and conformity. Without this cementing and assimilating power, our system would go to pieces by its own centrifugal force.

Happily, with us, a change of administration works no serious detriment to the public service. We have a permanent civil service department, which is but little affected by changes of ministry. Each department has a deputy head and a trained staff of officials, who are fully competent to transact its ordinary business.

From the imperfect sketch which I have given, it may be truly inferred that the British Constitution, of which ours is the counterpart, is an aggre-

gation of distinct and naturally conflicting elements. Its present condition is rather the result of growth and development than of philosophic speculation. Every reform has been the redress of an actual grievance. Every stage of its growth has been marked by compromise. Every conflict, whether of words or of arms, ended in compromise. None of the original forces have been destroyed. They all exist, and are harmonized by compromise. The whole story of British history teaches us that. In the Saxon period, all the political forces were held by the king and his Witan. During the Norman period, the forces commenced to separate themselves. Under the Tudors and Stuarts, prerogative government prevailed, but did not annihilate the other forces. From the revolution of 1688 until the Reform Bill of 1832, the great aristocratic families prevailed. Since the Reform Bill, the democratic element has acquired increasing strength and control, but the original elements exist, and are harmonized and made to work with equal docility in drawing the car of state, by that most ingenious of all political inventions, the cabinet ministry.

UNITED STATES SYSTEM COMPARED.

Perhaps a brief comparison of some of the prominent features of our system with corresponding features in the republican system of our neighbors across the line may serve to illustrate our own.

As I have explained, with us, the whole machinery of government, the different branches of the legislature and executive are held together and harmonized by the cabinet ministry, with its twofold responsibility. It is animated by one spirit, actuated by one motive power, all parts work in unison, with one purpose, to one end. If differences arise, they are immediately adjusted by an appeal to the people, the supreme judge and arbiter. In England there can be no deadlock, for the Crown and the popular branch must be in unison—or, if temporarily at variance, they are effectually brought together again by an appeal to the people. If the majority in the House of Lords is obstructive, it may be overborne by the creation of an indefinite number of new peers, by which expedient the complexion of that body would be changed and made to harmonize with the other branches. In Canada there is a limitation to the number of new senators who may be appointed ; therefore a refractory Senate might hold the other two branches at bay until the constitution was changed in that particular.

As all important measures must have received the sanction of the advisers of the Crown prior to their introduction, it can hardly be supposed that the Crown would veto its own measures if they had passed the two Houses. Nor can any occasion be imagined for the future use of the veto power.

The American system works very differently. There, the unseemly spectacle is often witnessed of the two branches of the legislature at variance with each other, and a president at variance with one or both Houses. The car of state seems to jolt roughly over a corduroy road, instead of moving smoothly, as it ought, over a railway track. Deadlocks and vetoes are common incidents. This condition is largely owing to the separation of the legislative and executive powers. The two Houses composing Congress makes the laws: the president *executes* them. Each has power to annoy and obstruct the other, but neither has a constitutional responsibility for the acts of the other. The president may veto acts of Congress, and, by the use of his patronage, he may influence individual members, but otherwise he has no constitutional influence or control over legislation. The Senate may, in certain matters, refuse to confirm the acts of the president, but otherwise Congress has no constitutional influence or control over the immense power of the executive. These are elements of repulsion, not of cohesion. Each may check and obstruct the other, but neither can constitutionally influence or control the actions of the other, and each may, moreover, be moved by a different and opposite purpose. Even when pulling together, they do not, to use a homely illustration, "pull upon an evener but upon dead hooks." When

they pull diversely, there is a tearing rack and strain, as I shall presently show.

In the United States, the president is elected for a stated period, wields immense power, and, in a constitutional sense, is a wholly irresponsible officer. He exercises his high functions independently of Congress and people, and can only be reached by impeachment or criminal prosecution. In like manner, every congressman in either House is independent and irresponsible, until he has completed the full term for which he was elected. There is no provision in the constitution of the United States by which an unpopular or mischievous administration may be displaced or an unpopular legislature dissolved. President and congressmen alike hold office for a stated period, under an irrevocable power of attorney. Under parliamentary government, those who hold the legislative trust have an ever-present consciousness of responsibility; members of Parliament know not the day nor the hour when they may be sent to their constituents. It has been well said that agents who are not held to account are not held to fidelity, and that an irresponsible trustee has the strongest inducement to rob the trust fund.

To illustrate how differently the two systems of government would work under a given condition of affairs, I will cite a few instances. James Buchanan was a democratic president. During the last two

years of his term the majority in Congress was republican. Had our system of responsible government existed there, whatever might have been the personal opinions or preferences of the president, he would have been obliged to act under the advice of a republican cabinet. The great offices of state would have been filled by republicans responsible to Congress. The policy of the administration would have been republican. Every act of the government would have been a subject for inquiry, criticism and constitutional censure, and the great peril which was then impending over the nation might have been averted. But, under their system of irresponsibility, the president was surrounded by advisers who were inimical to the majority in Congress and in the nation. History tells the result. The cabinet of Buchanan was the hot-bed in which the seeds of rebellion first germinated. Secretly, traitorously, the men who had sworn to uphold the union and constitution plotted their overthrow. Had republican counsels prevailed in the cabinet, as in Congress, the Great Rebellion might have been indefinitely postponed, perhaps rendered impossible.

Again, we remember how President Andrew Johnson held Congress and the country at bay for a long period, and, by the leverage of his position, counterbalanced the majority of a nation.

That one of the most intelligent and progressive

nations on the earth should, in this nineteenth century, continue to adhere to a system of irresponsible government, fraught with so much inconvenience and peril, a system which has been outgrown by France, Austria, Italy, Belgium, and other nations and states, and which exists now only in Russia, Germany, Turkey, Brazil, China and a few other countries, is a most glaring anomaly and anachronism. In this respect, they seem to regard more highly the traditions of the fathers and the sacredness of a written constitution, than the teachings of history and the progressive movements of the age.

Founded in democracy and designed to give the highest expression of the democratic sentiment compatible with order, the Constitution of the United States, to-day, is essentially less democratic than was that of Great Britain a quarter of a century ago. Liberty-loving peoples all over the world model their new constitutions after that of monarchical England, rather than that of republican America.

In another essential particular I regard our system as immeasurably superior to theirs.

As already explained, all important legislation, with us, is proposed by the ministry, upon its responsibility. The ministry is made up of the best men of the party which, at the time, has the confidence of the nation. By their measures they must stand

or fall, and their party with them. As a rule, therefore, every important measure is carefully prepared and considered by, presumably, the best minds in the legislature before it can see the light. It may not express the extreme views of any one man. It is rather the average sentiment of many. It is distinctly formulated, ably supported, and backed by the whole strength of the party. It may not be the best possible. It may be the worst. But it expresses a *policy*, clearly and distinctly—a *living issue*, upon which Parliament and the country are to judge.

In the United States Congress any member may introduce any measure. There is seldom any responsibility connected with its introduction except that of the introducer. Parties, therefore, lack cohesion. They are split up into factions and sections, under leaders who are free lances. They present the aspect of guerilla warfare, instead of the marshalling of armies. Parties may be a unit on some one great question, and yet fragmentary on all others. There have been hard-money democrats and soft-money democrats ; hard-money republicans and soft-money republicans. The republicans have been the dominant party since the outbreak of the war until now. Upon living issues, concerning which the country needed a distinct policy, they have been often divided and, as a party, ineffective. Respecting the pacification of the South they were

divided. Respecting civil service reform they are divided. Respecting contraction, expansion and early resumption they were divided. Respecting the tariff they are divided. Respecting many great questions which concern the present and future of their country they are divided. They unite upon dead issues, like the war issues, and disagree upon living issues. A republican leader proposes a measure or a policy, and finds in another republican leader his most bitter antagonist. The same is equally true of the democrats.

The fault is of the system, and not of the individuals who constitute parties. They quarrel about historical events, but are promiscuously confused and intermingled upon the questions which concern the present and future life of the nation. Such a condition is impossible with us—for with us the vital questions are the real dividing lines of parties. Of necessity they must be.

Lest I may seem to overdraw the picture, I will quote from an intelligent American of high authority, Prof. Van Buren Denslow. He says, in the *International Review*:—"This causes legislation to
"drift without a helm over the wide waste of indi-
"dual speculation and aimless, disorganized, nomadic
"effort. For fifteen years past Congress has had
"no financial policy whatever, and has been inca-
"pable of maturing one, solely from this inherent
"defect in its organization. Each bill that any

“one member introduces is assailed by every other through jealousy, lest some one member may get the credit of affording financial relief to the country.” He says, with point :—“The system renders our elections vapid and meaningless, dishonest and irrelevant. Does the pending question before Congress relate to the currency? Then vote for Jones, because he is sound on the negro and on the war.” Thus, elections to Congress are determined upon dead issues, not upon living questions of national policy, which practically concern the whole people. As a result of this incoherent system, they have crude projects of legislation, ambitious projects of legislation, and paralysis of legislation.

For lack of time, I will bring to your notice only one other point of difference between our system and that of the United States, namely, civil service and executive patronage.

The judges of the United States courts (I mean the federal judges), like our own, are appointed for life, and are removable only by impeachment. Thus, in both countries, the federal judiciary is independent of all changes of administration. The political offices are held by members of the administration, and, of course, as in Canada, are vacated when the administration goes out. All other offices in the civil service, with us, are filled upon the recommendation of the ministry, and are practically

held during good behavior, which, in most instances, is for life, and selections are made from those who have passed a qualifying examination ; but the ministry is responsible for all appointments and for all removals. An office-holder ceases to be an active politician ; he sees his life work before him in the discharge of his official duties, his promotion depends upon his good conduct, fidelity and efficiency. If of the regular staff, provision is made for a retiring allowance in his declining years. He is surrounded by every influence and stimulated by every motive which tend to inspire a proper spirit of emulation and devotion to the service in which he is engaged. As a practical result, we have a body of officials who, as a body, are honest, faithful and efficient. Among them we have men of the finest intellect, highest culture, and most untiring devotion to their work. In England, until within the last hundred years, patronage was often outrageously abused ; but, by the patriotic labors of Edmund Burke and others, sinecures have been abolished, abuses reformed, and the evils of patronage reduced to a minimum.

But in the United States the abuse of patronage has been rampant. It has been the most corrupting, dangerous and utterly demoralizing element in their political system. Until recently, the Jacksonian doctrine, "To the victors belong the spoils," has guided the practice of each party in turn as it

attained power. Todd, who always speaks guardedly, says of the American system :—" On the part " of the employés themselves, it has encouraged " every species of political profligacy, diminished the " sense of personal responsibility, and fostered a " careless indifference to the obligations of office, " whilst its emoluments are greedily sought for, and " too often fraudulently increased. It has deprived " the state of the services of men of character and " qualifications, hindered the progress of departmental improvement, and compelled every successive batch of employés to acquire the merest rudiments of official routine, when they should be " profiting by the traditions and experience of office " to bring their several departments into the highest " possible condition of efficiency."

Experience, as well as reason, teaches that a reformed civil service, based upon merit and fitness, permanent in its tenure, relieved from executive patronage, and honestly and thoroughly enforced, would do more to purify and elevate American politics than any other reform. Politics would then cease to allure unscrupulous adventurers, for they would miss the spoils of victory. Good and qualified men would come forth from their retreats and take their share of the burdens and responsibilities of public life. The chief source of competition being cut off, a more healthy life blood would permeate all the veins and arteries of the nation.

If, in addition to a still further reformed civil service, our neighbors would adopt a system of Responsible Government similar to ours, lengthen the term of the presidential office, and limit it to one term, their methods of government would then combine the the chief excellences of the monarchical and republican systems, and would embody the ripest wisdom of the old world and the liberty-loving instincts of the new.

INFLUENCE OF THE CROWN.

Returning to the main theme of my lecture—the principles of parliamentary government in our own country—I have dwelt upon the great political influence of the premier, and the preponderating power of the House of Commons. It must not, however, be inferred that the Queen and the Governor-General have no power—that they are mere figure-heads and state puppets. It is true that our system is now so admirably balanced and tempered, that a wrong-headed, obstinate and over-reaching monarch can do no great harm, for no official act can be performed, except upon the advice and with the concurrence of the ministry. And no ministry can exist unless it has the confidence of the people's representatives. It is true that even an incapable and indolent monarch would not be able to paralyze the movements of government, for there is sufficient energy in the other branches to work the

machinery without his help. But, on the other hand, a wise and able sovereign can be—indeed now is—a great and living power in the state for good. The power is rather that of influence than authority. If the will of the monarch conflicts with the will of the people, the monarch must yield—and rightly so. If their wills are concurrent, the monarch has immense power. As the sovereign cannot act except through the ministry, so the ministry cannot act except with the sanction of the sovereign. She may dismiss her ministers or require them to render to the people an account of their stewardship. She may dismiss an individual minister for misconduct. In 1851, her present Majesty dismissed Lord Palmerston, then foreign secretary, for an indirect communication with the French ambassador, in which he personally expressed sentiments at variance with the royal instructions. Her influence may even modify the policy of her ministers. In 1861, the Queen required Earl Russell to so modify his despatch on the Trent affair as not to give offence to the Americans, and thus she probably averted war. The supreme rank and pre-eminent social position of the sovereign are elements of power. Lord Derby says the people of this country are under a great mistake if they suppose the sovereign does not exercise a real salutary and decided influence over the councils and government of the country. The

sovereign is not the mere automaton or puppet of the government of the day. She exercises a beneficial influence and control over the affairs of state, and it is the duty of the minister, in submitting any proposition to the assent of her Majesty, to give satisfactory reasons that such propositions are called for by public policy and justified by the public interests. If her Majesty is not satisfied with the advice tendered her, the course of the Crown and that of the minister is equally apparent. The course of the Crown is to refuse to accept that advice of the minister, and the inevitable consequence to the minister would be to tender his resignation.

Professor Austin says : The power of the Crown to control the Houses operates silently. It is rarely exercised *in fact*—but it could be exercised in fact, if the exercise became necessary, and were sanctioned by the approbation of the country. But, whatever may be the distinctive power, privilege or prerogative of Queen, Lords or Commons, they all are, and, under responsible government, of necessity must be, subordinate to the great controlling power over all, the tribunal of the last resort, *Public Opinion*.

An able, active and aggressive Press, the debates of leading men in Parliament, the utterances of Beaconsfield and Derby, Gladstone and Bright, Macdonald and Mackenzie, Tupper and Blake, in

and out of Parliament, the lecture platform, the hustings, and other similar agencies, acting upon the intelligent mind of the people, mould and create a mighty public opinion which, in turn, controls and compels all the recognized powers in the state. Public opinion, and not the government of the day, determines whether England shall engage in foreign wars. A Gladstone in opposition overmatches a Beaconsfield at the head of the government, when he can work more powerfully upon the mind of the nation.

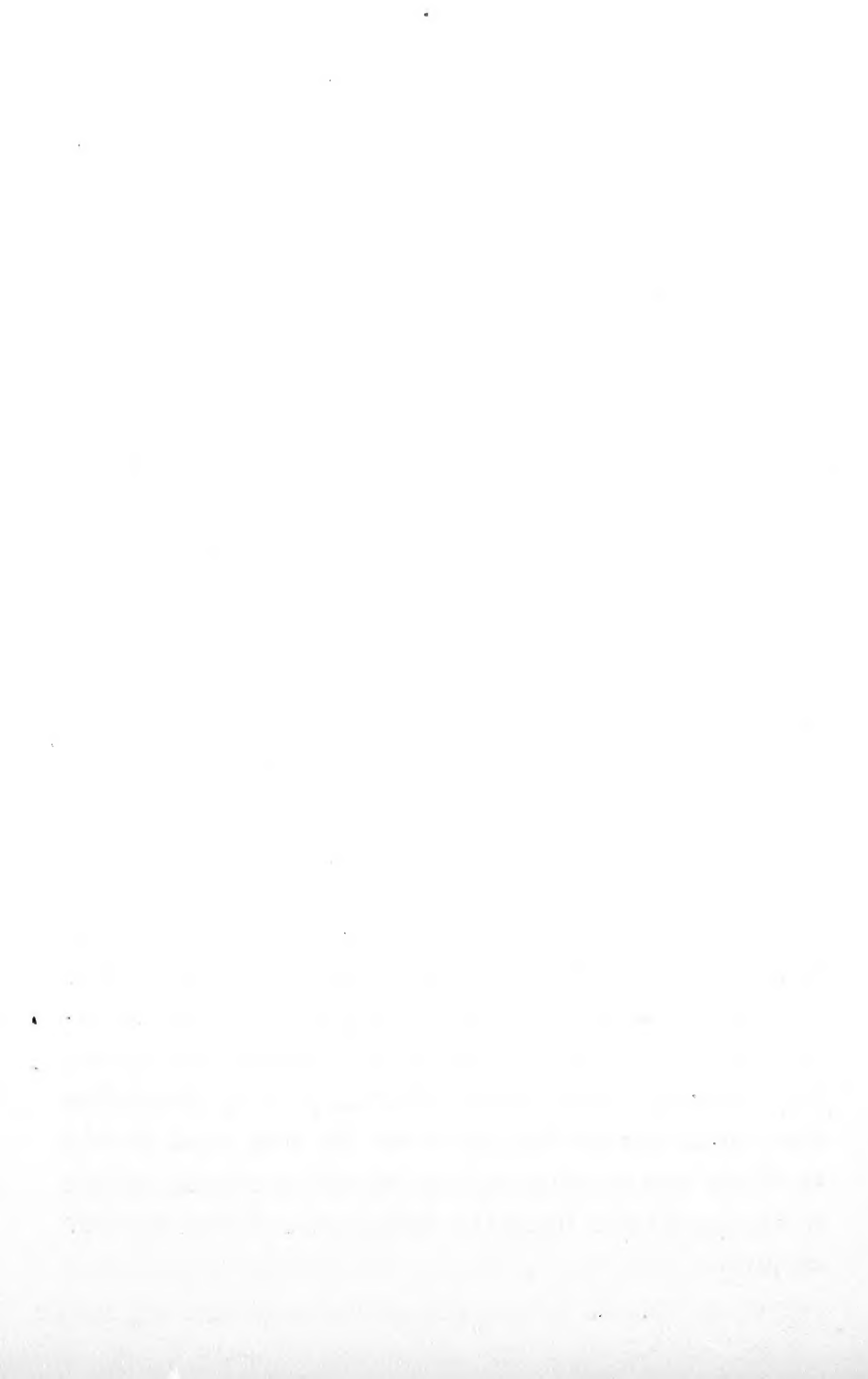
This extreme sensitiveness to the pressure of public opinion is the chief peculiarity of Responsible Government, its excellence and its defect, its strength and its weakness. How important, therefore, that public opinion should be honest and uncorrupted !

After the Crown had been deprived of the personal and irresponsible exercise of its great prerogatives, it was thought in England that the loss must be counterbalanced by some equally potent means of influence. Then followed a *regime* of placemen and sinecures, bribery, intimidation, rotten boroughs, and such like undue advantages and corrupting agencies, by which the supremacy of the Crown and the dominant party were maintained. These, in turn, have been swept away or largely curtailed, and it has been sufficiently demonstrated that government can be efficiently carried on with-

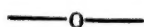
out their aid. As the system now is, pure elections lie at the root of good government, and the question may well be considered in Canada, whether, by a still further civil service reform, the last remnant of patronage may not be taken away with advantage. Unquestionably, England and Canada owe an immense debt of gratitude to the statesmen of the whig and liberal parties for their labors in past days in the direction of good and pure government and popular influence. But now, when popular influences so strongly prevail, wary pilots are looking anxiously in the direction of democratic shoals whither the ship of state has been, perhaps, too rapidly drifting.

· Every form of government has its own special dangers which it is the duty of public men to recognise and guard against ; a duty in the performance of which they should be encouraged and assisted by all good citizens.

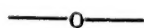
While our system, by reason of its elasticity, readily adapts itself to the requirements of the mixed populations, diverse religions, varied interests and rapid development of our new and growing country, that very elasticity may hereafter become a serious danger if we do not hold firmly to those restraining and conservative checks which in the past have been the safeguards of the mother country.



BISHOPS COLLEGE LAW SCHOOL,
SHERBROOKE.



SIXTH SESSION, 1885-86.



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